

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

GIL CROSTHWAITE, RUSS BURNS, in
their respective capacities as Trustees of
the OPERATING ENGINEERS HEALTH
AND WELFARE TRUST FUND FOR
NORTHERN CALIFORNIA, et al.,

No. C 07-06460 WHA

ORDER FOR RESPONSE

Plaintiffs,

v.

KICKING ENTERPRISES, INC., a
California Corporation, and STEVE
LAWRENCE SCHALLER, individually,

Defendants.

On May 30, 2008, plaintiffs filed with the Court a notice of voluntary dismissal without prejudice in which plaintiffs notified the court that the parties had entered a stipulation for entry of judgment. The stipulation established a payment plan to satisfy the amounts defendants owed plaintiffs in this action. The Court signed the voluntary dismissal on July 2, 2008.

The parties' stipulation provided that, in the even of a default under that agreement which is not cured according to the terms of the agreement, "plaintiffs shall file this Stipulation for Entry of Judgment with the Court, in the amount of the principal unpaid balance remaining due A Declaration of plaintiffs, or their counsel, regarding the balance due will be sufficient to confirm the amount of the Judgment to be entered" (Dkt. No. 25, Exh. A at ¶ 4).


On September 26, 2008, plaintiffs filed with the Court a request for entry of judgment contending that defendants had failed to make a payment required under the parties' stipulation

1 and had failed to cure pursuant to the terms of stipulation. Plaintiffs requested that the Court
2 file plaintiffs' proposed order entering judgment against defendants for the balance due under
3 the agreement plus interest and attorney's fees (Dkt. No. 28 ¶ 10).

4 The Court hereby orders defendants to respond to plaintiffs' request for entry of
5 judgment within twenty calendar days of the entry of this order, *i.e.*, by **October 20, 2008**, to
6 inform the Court whether defendants oppose plaintiffs' requested entry of judgment and on
7 what grounds. If defendants fail to respond by the date specified herein, the Court will deem
8 plaintiffs' request unopposed and will enter plaintiffs' proposed order of judgment.

9
10 **IT IS SO ORDERED.**

11
12 Dated: September 30, 2008

13 
14 _____
15 WILLIAM ALSUP
16 UNITED STATES DISTRICT JUDGE
17
18
19
20
21
22
23
24
25
26
27
28